IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

MONDAY, THE 11TH JUNE 2007 / 21ST JYAISHTA 1929

Crl.Rev.Pet.No. 1325 of 2007()

CRA.878/2005 of II ADDL.SESSIONS COURT, ERNAKULAM
CC.79/2002 of JUDL.MAGISTRATE OF FIRST CLASS-II, KOCHI

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REVN. PETITIONER: APPELLANT/ACCUSED.

S.BALAKRISHNA PRABHU,
S/O.SARVOTHAMA PRABHU,
AGED 44 YEARS, CC 4/980,
NORTH CHERLAI, KOCHI 2.

BY ADV. SRI.S.RAJEEV

RESPONDENTS: COMPLAINANT AND STATE.

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1. M.LILLY JOSEPH, W/O.JOSEPH,
AGD ABOUT 50 YEARS, MANAPPURATH HOUSE,
NORTH CHERLAI, KOCHI 2, REPRESENTED BY POWER OF
ATTORNEY HOLDER JOSEPH GEORGE, MANAPPURATH HOUSE,
NORTH CHERLAI, KOCHI 2.

2. THE STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

R2 BY PUBLIC PROSECUTOR SRI C.M. KAMMAPPU.

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 11/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R. UDAYABHANU, J.

CRL.R.P. NO. 1325 of 2007

Dated this the 11th day of June, 2007

ORDER

The revision petitioner stands convicted for the offence under section 138 N.I.Act and sentenced to imprisonment till the rising of the court and to pay a compensation of Rs.25,000/- to the complainant vide section 357 (3) Cr.P.C and in default to undergo simple imprisonment for one month. The contention of the revision petitioner is that it was not the original power of attorney who represent the complainant at the time of trial and another power of attorney was appointed, but no leave of the court was obtained. Hence the proceedings is vitiated. I find that there is no illegality in the same. The revision petitioner/accused has not sent a reply notice nor has he adduced evidence to rebut the statutory presumptions.

2. In the circumstances and in view of the concurrent findings of the courts below, I find no reason at all to interfere. Hence, the conviction is confirmed.

3. Counsel for the revision petitioner has pleaded that the revision petitioner has been convicted in a number of other cases

and that he has undergone imprisonment as well. In the circumstances, the revision petitioner is granted 4 months' time from today onwards to pay the amount of compensation. The revision petitioner shall appear before the JFCM-II, Kochi, on 10-10-2007 to receive the sentence.

The Crl.R.P is disposed of accordingly.

K.R.UDAYABHANU,JUDGE.

Kvm/